

FREEDOM OF INFORMATION

Freedom of information lays the foundation for government transparency. Governments with freedom of information legislation are required to provide information at minimal cost to anyone who requests it. Most laws provide exceptions for the disclosure of information regarding national defense and foreign relations.

OPEN GOVERNMENT INITIATIVE



For too long, the American people have experienced a culture of secrecy in Washington, where information is locked up, taxpayer dollars disappear without a trace, and lobbyists wield undue influence. For Americans, business as usual in Washington has reinforced the belief that the government benefits the special interests and the well connected at the expense of the American people.

But President Obama committed to change the way Washington works. And he has begun to do just that.

On his first day in Office, President Obama signed the Memorandum on Transparency and Open Government, ushering in a new era of open and accountable government meant to bridge the gap between the American people and their government:

The Administration is reducing the influence of special interests by writing new ethics rules that prevent lobbyists from coming to work in govern-

ment or sitting on its advisory boards.

The Administration is tracking how government uses the money with which the people have entrusted it with easy-to-understand websites like recovery.gov, USASpending.gov, and IT.usaspending.gov.

The Administration is empowering the public – through greater openness and new technologies – to influence the decisions that affect their lives.

The Administration has issued an Open Government Directive, instructing every government agency to open its doors and its data to the American people.

The Obama Administration is reshaping government according to three core values:

- **Transparency:** Government should provide citizens with information about what their government is doing so that government can be held accountable.

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Information Resource Center

Public Affairs Section

U.S. Embassy Jakarta

Based on mutual respect and shared values, the US Mission works with Indonesia to strengthen democracy, sustain the environment, promote prosperity, enhance understanding and ensure security for our people, our nations, and our region.

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NATIONAL FREEDOM OF INFORMATION DAY



Freedom of Information (FOI) Day is an annual event on or near March 16, the birthday of James Madison, who is widely regarded as the Father of the Constitution and as the foremost advocate for openness in government.

To commemorate this event, American Library Association (ALA) presented the James Madison Award and Eileen Cooke State & Local Madison Award in order to recognize those individuals or groups that have championed, protected, and promoted public access to government information and public's right to know.

In addition, during the week of FOI Day, another event called "Sunshine Week" is also celebrated.

Sunshine Week is a national initiative to promote the dialogue about the importance of open government and freedom of information.



Sunshine Week as a national effort spearheaded by the American Society of News Editors.

Though created by journalists, Sunshine Week is about the public's right to know what its government is doing and why.

Sunshine Week seeks to enlighten and empower people to play an active role in their government at all levels, and to give them access to information that makes their lives better and their communities stronger.

Participants include news media, civic groups, libraries, nonprofits, schools and others interested in the public's right to know.

Sources:

<http://bit.ly/enx67c>

<http://bit.ly/eb2bxQ>

FREEDOM OF INFORMATION ACT AND GOVERNMENT ACCOUNTABILITY

Learn About Freedom of Information Act (FOIA)

What is FOIA

Enacted in 1966, and taking effect on July 5, 1967, the Freedom of Information Act (FOIA) provides that any person has a right, enforceable in court, to obtain access to federal agency records, except to the extent that such records (or portions of them) are protected from public disclosure by one of nine exemptions or by one of three special law enforcement record exclusions. A FOIA request can be made for any agency record.

FOIA is often described as the law that keeps citizens in the know about their government. Under the FOIA, agencies must disclose any information that is requested – unless that information is protected from public disclosure. The FOIA also requires that agencies automatically disclose certain information, including frequently requested records. As Congress, the President, and the Supreme Court have all recognized, the FOIA is a vital

part of our democracy.

Who Oversee FOIA

It is the Executive Branch, led by the President, that is responsible for the administration of the FOIA across the government. The Department of Justice's Office of Information Policy oversees agency compliance with these directives and encourages all agencies to fully comply with both the letter and the spirit of the FOIA.

What is the Administration's FOIA Policy?

President Obama and Attorney General Holder have directed agencies to apply a presumption of openness in responding to FOIA requests. The Attorney General specifically called on agencies not to withhold information just because it technically falls within an exemption and he also encouraged agencies to make discretionary releases of records. The Attorney General emphasized that

the President has called on agencies to work in a spirit of cooperation with FOIA requesters. The Office of Information Policy at the Department of Justice oversees agency compliance with these directives and encourages all agencies to fully comply with both the letter and the spirit of the FOIA. President Obama has pledged to make this the most transparent Administration in history.

Open Government

FOIA is an integral part of creating an open and transparent government. On his first full day in office, President Obama signed the Memorandum on Transparency and Open Government calling for unprecedented openness and transparency in government and declaring "Information maintained by the Federal Government is a national asset."

More details are available at:
<http://www.foia.gov/index.html>

Free Press: The Right of Access to Government Information

Why is the right of access to government proceedings and information important?

- Access helps keep government accountable to its citizens. As a U.S. Supreme Court justice once wrote, freedom of information laws allow citizens to find out "what the government is up to" in the present, and also what it did in the past. By helping to check improper conduct, access serves as a valuable anticorruption tool and helps build public trust.
- Access allows the public to tap into the vast quantities of government-collected and -maintained information, information paid for by the public's tax dollars.
- When journalists can obtain public records, they need not rely on the whims of a government source to report on government actions and activities, and they can better disclose how tax dollars are spent and how policies are made and implemented.

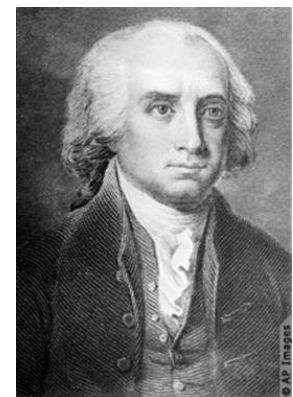
Freedom of information is a constitutional right in about 80 countries. Sweden's 1766

press law, often considered the first freedom of information act, is part of its constitution, and some older constitutions have been amended to include a right to know. Many developing democracies in Central and Eastern Europe and Latin America include access provisions in their new constitutions. Even when the constitution contains no explicit language, the highest courts in some countries, including Korea, Japan, and Israel, have found a right of access to information implicit in the right of freedom of the press or expression.

More than 70 additional countries have enacted freedom of information statutes. These are well established in Europe and the Americas, less so in Asia, the Middle East, and Africa. But the trend is definitely toward greater transparency in government around the world.

Source:
<http://www.america.gov/st/democracyhr-english/2010/December/20101123120643nayr0.922582.html>

DID YOU KNOW?



James Madison, the fourth U.S. president and author of the Bill of Rights, cited the importance of freedom of information for the preservation of democracy. In his letter to W.T. Barry, dated August 4, 1822, he wrote: "A popular government without popular information, or the means of acquiring it, is but a prologue to a farce or a tragedy; or perhaps both. Knowledge will forever govern ignorance; and the people who mean to be their own governors must arm themselves with the power which knowledge gives."

Freedom of Information “Built on Principles of Open Government”

By: Jim Fisher-Thompson; Staff writer America.gov

Washington — When President Lyndon Johnson signed the Freedom of Information Act (FOIA) on July 4, 1966, “he built on the principles of open government and citizen participation enshrined in the Declaration [of Independence]” signed by the Founding Fathers in 1776, said Melanie Pustay, director of the Office of Information Policy (OIP) at the Department of Justice.

Even with the 190-year difference, “both documents are intertwined,” Pustay told *America.gov* June 25. OIP was established in 1981 to oversee administration of FOIA issues in 92 federal agencies.

In the United States, FOIA applies only to the executive branch of the federal government. Citizens, noncitizens, organizations and businesses may make requests for documents without having to give a reason. Exemptions to disclosure include sensitive documents relating to defense and diplomatic matters. States also have freedom of information (FOI) laws for their documents.

Openness is important to the Obama administration, Pustay said. In his second day in office, Obama refined the concept of transparency and government responsibility in a memo sent to all federal agencies.

The memo, she said, “emphasized that a

democracy needs accountability, which in turn requires transparency. He called on agencies ‘to adopt a presumption in favor of disclosure when citizens request information. ... In the face of doubt, openness prevails.’”

As chief administrator of FOIA, Pustay said, “We [at the Department of Justice] like to think of ourselves as the champion of FOIA within the government. Our key role is to encourage compliance with the act.” [...].

“A VERY GENEROUS SYSTEM”

FOIA has “become a part of our culture,” in part, Pustay said, because it is a relatively easy process for people requesting information.

“It is a very generous system.” Of the hundreds of millions of dollars it costs to handle FOIA requests each year, “we only recoup about 3 percent from fees.” Pustay explained that “non business requesters get the first two hours of search time for free as well as free copying of the first 100 documents. This is built into the law so that every citizen, even if they have no money, can get access to information.”

Journalists are not charged any search fees for federal documents, she added, “because it is recognized they are going to use the in-

formation for their news-gathering function” and for public awareness.

Read more at:

<http://www.america.gov/st/usg-eng-lish/2009/June/200906301538021ejrehisf0.3249628.html>

HIGHLIGHTS

The U.S. FOIA has been used over the years by organizations and individuals to uncover government waste, fraud and abuse. For example, the Better Government Association (BGA), a public interest organization that combats government corruption, was contacted by a citizen who claimed there was extensive waste in U.S. Navy operations. Using FOIA, BGA was able to document Navy purchases at hugely inflated prices. For example, BGA found the Navy was purchasing a type of valve for \$140 that could be bought in hardware stores for \$11. Public outcry resulted in procurement changes that reportedly saved the Navy some \$170 million.

Source:

<http://1.usa.gov/gjk7E3>

Study: One-fourth of Federal Websites Surveyed Rank High in Transparency

Eight of 32 Websites Earn Highest Ratings for Transparency



A quarter of federal websites surveyed scored high in online transparency, which also was found to be associated with high ratings for customer satisfaction and participation, according to a new study from the research firm ForeSee Results.

For the eight of 32 federal websites that scored 80 or higher on a 100-point transparency scale in 2010, there is a strong correlation with customers being more satisfied, more likely to rely on the website as a primary resource of information and more likely to recommend the website to others, ForeSee said in a report issued Feb. 22.

Top-scoring agencies for the fourth quarter of 2010 included the U.S. Citizenship and Immigration Services agency, National Oceanic and Atmospheric Administration, Navy, Air Force and the National Human Genome Research Institute. [...].

ForeSee surveyed more than 300,000 people who visited 32 federal websites in calendar year 2010. The 32 websites are sponsored by agencies that cooperated with ForeSee's surveys. The ForeSee E-Government Transparency Index was created by ForeSee based on methodology used in the American Customer Satisfaction index.

Eight of the 32 websites scored 80 or above for the fourth quarter of 2010, while one

scored below 70. The remainder scored between 70 and 79.

Average online transparency scores for all 32 sites were measured over a 15-month period and did not change much. The aggregate score rose from 75.4 in the fourth quarter of 2009 to 76.2 in the fourth quarter of 2010. There was a drop in the second quarter of 2010, but the average score rebounded by year's end.

Source:

<http://bit.ly/hKDm82>

Complete report is accessible at:

<http://bit.ly/g7M678>

FREEDOM OF INFORMATION OVERSEAS

U.S. Freedom of Information Act Seen as Good Model for Others

By: Jim Fisher-Thompson; Staff writer America.gov

Washington — A 43-year-old law for keeping the U.S. government open and transparent, the Freedom of Information Act (FOIA), is a model for other nations, says Tom Blanton, director of the National Security Archive (NSA), a nongovernmental organization (NGO) that uses FOIA to collect and publish declassified documents.

"The principle of free information is vital" to a functioning democracy, Blanton told *America.gov* during a June 1 interview in his office at George Washington University.

Since FOIA's inception in 1966, the federal government has released millions of documents requested by individuals, corporations and NGOs. The law, which applies to all agencies in the executive branch of government, is administered by the Department of Justice. Exemptions to FOIA include certain classified foreign relations documents, national defense information and proprietary business information and trade secrets.

Blanton said FOIA is not just for journalists, researchers and scholars. "Senior citizens, military veterans and businesses make up the bulk of requests for government information" in the United States, he said.

A "CHECK ON POWER"

The United States' FOIA process has been a model for nations that have developed similar laws, Blanton said. "And we have also used the process to get more closed societies like Cuba, Vietnam and Russia to open up their government archives," he said.

Blanton said there has been "an openness revolution," particularly in the 1990s when the number of countries that have FOIA-type laws "went from about a dozen to today, about 80."

FOIA is basically "a check on power," Blanton said. "People in places like India, Mexico, Argentina and Hungary decided that they needed the right to know what their governments were up to; a lesson they learned from corruption, abuse of power, military dictatorships or communist totalitarianism."

"The natural propensity of any bureaucracy is to control its own information," Blanton said. "But members of government are just its custodians, and the only reason to keep secrets is if government can identify the harm if they are released and you have a working check and balances and appeal process" for citizens making inquiries. [...].

Blanton said NSA advocates for the release of documents primarily to open a window into government decision making, "in order to broaden the historical record." [...].

"One of our biggest coups," Blanton said, was recently winning a lawsuit forcing the government to save White House e-mail from President Reagan's time in office in the 1980s.

"The National Archives did not define e-mails as records, and so without our lawsuit, e-mails in electronic form would not have been preserved." (The National Archives and Records Administration is the official record keeper for the United States.). [...].

FOIA'S IMPACT OVERSEAS

Blanton said, "Another big success has been taking documents we've gotten through the American FOIA to foreign countries that are still largely closed, like China, Cuba, Vietnam" and Russia after the fall of communism.

"Showing them what American documents say threatens to tell the history from our perspective rather than theirs, and this poses an interesting challenge for them to open up," he explained.

"We did just such a presentation for [Cuban] President Fidel Castro in 1992 with about 20,000 pages of American documents we retrieved through FOIA," Blanton said.

"Castro's response was to snap his fingers and three guys came out with archival boxes, and he proceeded to pull out documents, exclaiming things like: 'Oh, what about that letter [Soviet leader Nikita] Khrushchev sent me apologizing for taking out the missiles without telling me beforehand.' Nobody had ever heard of that in Western historiography."

Some of these meetings with leaders of more closed societies actually have led to unveiling

of new information, Blanton said. "For example, from the Gorbachev Foundation [founded by Mikhail Gorbachev, former president of the Soviet Union] we got the transcript of his meeting with President George H.W. Bush at Malta [in December 1989]; the American version is still classified and has not yet been released."

Malcolm Byrne, NSA deputy director and director of research, said NSA was also working with a number of countries to help develop or strengthen their own FOIA laws. He mentioned that Blanton and an NSA team recently visited Georgia and are working with lawmakers there to set up a functioning information-access process.

NSA has also helped train journalists and others on how to use FOIA laws to investigate stories. The training aims to encourage journalists to lessen their mistrust for government by seeing how they can work with the government to gain access to information.

Source:

<http://www.america.gov/st/usg-eng-lish/2009/June/200906091623341ejrehisf0.3139414.html>

OPEN GOVERNMENT...

Continued from page 1

- Participation. Government should actively solicit expertise from outside Washington so that it makes policies with the benefit of the best information.

- Collaboration. Government officials should work together with one another and with citizens as part of doing their job of solving national problems.

Since day one, the Administration has been implementing these values of transparency, participation, and collaboration in tangible ways that benefit the American people.

Find more details at:

<http://1.usa.gov/6ciVto>

<http://1.usa.gov/ehziOe>

Indonesia's Freedom of Information Law

By: Dr. Brad Simpson, Asst. Professor of History and International Affairs, Princeton University; July 2010.



The Indonesian Parliament first discussed Freedom of Information legislation in 2001, and at the end of 2002 a Parliamentary Special Committee completed draft legislation and sent it to then-President Megawati Sukarnoputri. But neither Megawati nor her successor, Susilo Bambang Yudhoyono, commented on the legislation until late 2005, finally enabling Parliament to begin discussing the draft legislation.

Over the next two years members of the Indonesian Parliament debated the draft legislation, with input from numerous freedom of information and human rights NGOs, some of which received funding from the US Agency for International Development (USAID), the World Bank and other institutions. Discussion of the legislation revealed many disputes over which government agencies would fall under the proposed legislation (and whether state-owned enterprises would be included), how violations of the law would be penalized, what institutional mechanisms would be created to process requests for information and adjudicate appeals, and what exemptions the government could claim in the name of national security or state secrets.

In April 2008 Indonesia's parliament passed the freedom of information legislation, Undang-Undang Keterbukaan Informasi Publik (UUUKIP), or the Transparency of Public Information Law. The law came into effect on May 1, 2010 after a two year government review.

The law defines the relationship between "public agencies" which produce "public information" and "public information applicants" who request information. It applies to all public agencies at the national, regional and municipal level (including state-owned enterprises), as well as political parties and non-governmental organizations. Public Information Applicants may "submit a request to obtain Public Information to the relevant Public Agency in writing or otherwise," (Article 22) after which the receiving Public Agency must provide a registration number. The recipient agency has ten (10) working days to provide written notification to the applicant concerning whether or not the request has been accepted or denied and why, as well as the costs associated with obtaining the requested

information. Applicants whose requests are denied have several layers of appeal, including access to the courts.

Chapter III (Articles 4-8) defines the rights and obligations of Public Agencies and Public Information Applicants. Chapter IV (Articles 9-16) defines those classes of information that are subject to the law and either must be made available to the public on a timely and regular basis or released upon request by an applicant....

Chapter V (Articles 17-20) defines exemptions to the law. Article 17 defines information not subjected to the law ("exempted information"), including information that would: obstruct ongoing criminal investigations; violate intellectual property or personal privacy; "reveal the natural wealth of Indonesia"; "be harmful to the national economic security"; "jeopardize the defense and security of the state" or "be harmful to diplomatic relations," including "inter-state diplomatic correspondence" and "memorandum or letters between the public agencies or among the public agencies that, based on their nature are confidential." The exemptions exclude information related to court decisions, examinations of criminal cases by the Attorney General or the Corruption Eradication Commission, and information authorized for release by the President.

Chapters VII and VIII define the scope and membership of the Information Commission, responsible for overseeing policy and adjudicating disputes with Public Information Applicants. The Commission will represent "elements of the government and elements of the society," its members nominated by the President and approved by Parliament. In theory, applicants whose requests are rejected have three escalating venues for appeal – mediation and non-mediation adjudication via the Information Commission and litigation in the Indonesian courts. Chapter VIII lays out the legal sanctions which can apply to government agencies and employees who fail to comply with the law, as well as private individuals who "deliberately uses Public Information against the law," including up to a year in prison and Rp 10 million (about US \$1100) in fines.

Implications and Concerns:

Freedom of Information NGOs have raised a number of concerns regarding the bill. The first is that often poorly funded agencies at the local, provincial and national level currently lack the procedures and personnel to effectively implement the law, raising questions of how promptly and effectively officials will respond to application requests. Second, the law contains broad exemptions, especially in the area of national security and foreign relations, that could be used to justify withholding information regarding a wide range of government functions and operations. Journalists in particular have raised concerns that the law does not define with enough precision exactly what information ought properly to be classified as secret, though violations of these provisions can carry heavy penalties. Given the frequency with which the government has launched defamation lawsuits against journalists and even ordinary citizens, and the current consideration by Parliament of very broadly worded state secrets legislation, these are not idle fears.

Indonesian information advocates are rightfully celebrating passage and implementation of the country's first Freedom of Information Law. It represents substantial progress over a New Order-era legal regime and political culture that previously emphasized state secrecy and harsh penalties for those accused of libel, slander, or insulting the state and its officials. However, the impact and reach of the new law is as yet unknown, and will likely be determined by the efforts of civil society activists and ordinary Indonesians in testing its limits.

Source:

<http://www.freedominfo.org/regions/east-asia/indonesia/>

More Resources:

Full text version of the Law (UU No.14, 2008):

Versi bahasa Indonesia: <http://bit.ly/gcrfCY>

English version: <http://bit.ly/ghpVZ2>

Komisi Informasi RI:

<http://www.komisiinformasi.go.id/>

THIS INFORMATION PACKAGE IS COMPILED BY THE IRC TO COMMEMORATE
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Books, articles, and web-sites described in this info package present a diversity of views in order to keep our IRC users abreast of current issues in the United States. These items represent the views and opinions of the authors and do not necessary reflect official U.S. Government policy.

QUICK FACTS

- Sweden is believed to be the first country to adopt freedom of information legislation with its Freedom of Information Act of 1776.
- As of September 2010, National freedom of information laws exist in 80 countries.
- Wisconsin was the first state to enact an "open records" law shortly after it became a state in 1868.
- President Lyndon Johnson was not enthusiastic about signing the Freedom of Information Act (FOIA) in 1966. He wrote signing statement arguing that the Act could hinder security of nation.
- On October 2, 1996, President Bill Clinton signed the Electronic Freedom of Information Act Amendments. The amendments were designed to improve public access to agency information and ensure agency compliance with required time limits.

• Despite the presumption of openness, the following are nine areas of information that are exempt for release under FOIA: national security; internal agency rules/practices; internal agency memoranda; trade secrets; records made secret by another federal statute; some law enforcement records; bank records; oil and gas well data; personal privacy information.

• In the U.S, there is no initial fee required to submit a FOIA request, but the FOIA does provide for the charging of certain types of fees in some instances.

• Freedom of Information Day was established by a Congressional Joint Resolution in 1989.

• Referred to Pew Research, fully 82% of internet users (representing 61% of all American adults) looked for information or completed a transaction on a government website during the period of November 30 to December 27, 2009

• Indonesia's Law on Freedom of Information

requires, public institutions, including government ministries, state agencies, and legislative and judicial institutions, are obligated to respond to information requests from members of the public.

• According to Indonesia's Law on Freedom of Information, Agencies and officials who intentionally withhold information that should be revealed will be subject to penalties including the possibility of a sentence of up to one year and/or a fine of up to the equivalent of US\$520. Anyone who deliberately damages or destroys documents or records of public interest may be sentenced to prison for two years and a fine of up to the equivalent of about US\$1,100.

Sources:

<http://1.usa.gov/dUdBs3>
<http://1.usa.gov/hNh5kR>
<http://fxn.ws/fESMcY>
<http://www.foia.gov/index.html>
<http://huff.to/fpTjoj>
<http://1.usa.gov/i8qlZI>